

Under the Illinois Vehicle Code, a flat tax rate of \$15 is imposed for each motor vehicle acquired in a transaction when a motor vehicle which has once been subjected to the Retailers' Occupation Tax or Use Tax is transferred in connection with the organization, reorganization, dissolution, or partial liquidation of an incorporated or unincorporated business wherein the beneficial ownership is not changed. See 625 ILCS 5/3-1001. (This is a GIL).

November 8, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated July 12, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed. Your Private Letter Ruling request failed to include all of the required information. Specifically, the supporting and opposing statements of authorities were not submitted with your request. See 2 Ill. Adm. Code 1200.110(b)(5) and (6).

In your letter, you have stated and made inquiry as follows:

Please accept this letter as my request for a Private Letter Ruling pursuant to 2 IAC Section 1200.110. Specifically, I am seeking a Private Letter Ruling that the Private Vehicle Use Tax under 625 ILCS 5/3-1001 would create a tax liability of only \$15.00 under the scenario presented below.

STATEMENT OF FACTS

In 1994, I was a shareholder in the Illinois Professional Corporation known as COMPANY. In particular, I held 31.6 percent of the outstanding shares. COMPANY purchased a 1994 BMW 740 and held title in its name. (Exhibit A). As part of my compensation package with COMPANY, I held exclusive beneficial ownership interest in this vehicle.

In February 1998, COMPANY was reorganized and I transferred my shares back to the corporation. (Exhibit B). In return, I received consideration from COMPANY, including the legal title to the motor vehicle in which I held the beneficial ownership interest. (Exhibit C). In addition, I received a 1099 from COMPANY. For the value of the motor vehicle. (Exhibits C & D).

I caused legal title to be changed March 1998 (Exhibit E). In the process of registering the vehicle, I completed a RUT-50 Vehicle Use Tax Return. (Exhibit F). On Line 7 (e2), I indicated that the vehicle was being transferred as part of a business organization (Exhibit F).

Subsequently, I received a February 16, 1999 notice from the Illinois Department of Revenue indicating that the Department sought additional tax on the Vehicle Use Tax Return. No explanation was given, however, it would appear that the additional tax was based on Table B.

There is no audit or litigation pending with the Illinois Department of Revenue relative to the Vehicle Use Tax Return filed with regard to this vehicle.

Further, to the best of my knowledge, the Department has not previously ruled on the same or similar issue for me nor I have previously submitted the same or similar issue but withdrew it before a Letter Ruling was issued.

I am requesting a Private Letter Ruling that the transfer of the motor vehicle was part of a business reorganization and that the beneficial ownership of the vehicle did not, in fact, change. Accordingly, it is my position that this transfer should only be subject to the \$15.00 tax rate.

I thank you in advance for your attention to this request.

Section 3-1001 of the Illinois Vehicle Code, 625 ILCS 5/3-1001 (1996 State Bar Edition), imposes a tax on the privilege of using, in this State, any motor vehicle acquired by gift, transfer, or purchase. With certain exceptions, the amount of tax is based upon the model year of the motor vehicle unless the selling price of the motor vehicle is \$15,000 or more. A flat tax rate of \$15 is imposed for each motor vehicle acquired in a transaction when a motor vehicle which has once been subjected to the Retailers' Occupation Tax or Use Tax is transferred in connection with the organization, reorganization, dissolution, or partial liquidation of an incorporated or unincorporated business wherein the beneficial ownership is not changed.

Based upon the facts set forth in your letter and the attached documentation, it does not appear that such motor vehicle was transferred in connection with the reorganization of a business. Even if a reorganization were to have occurred under these facts, the beneficial ownership of the motor vehicle was changed. Consequently, the tax rate of \$15 is inapplicable.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

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If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk
Enc.